FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8005 OF 2004

Office Notes, Office Memoranda appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Order

Mr.I.M.Khairdi, for Petitioner

Mr.P.R.Arjunwadkar, for Respondent nos.1 & 2.

CORAM: D.K.DESHMUKH,J.

DATED: 31st August, 2005.

P.C.:-

1. By this petition, the petitioner challenges the order by which an application filed by the plaintiff-petitioner for firstly rejecting the counterclaim filed by the defendants

and secondly for directing the defendants to file independent suit on the subject of the counterclaim, has been rejected. So far as the first part controversy is concerned, the learned Counsel for petitioner is not in a position to show any provision which indicates that if the defendants do not file written statement because the time for filing written statement is over, he cannot put up a counterclaim also.

2. So far as the second aspect of the matter is concerned, the admitted position is that the subject matter of the suit and the counterclaim is the same. The parties to the counterclaim and the suit are the same. Obviously, therefore, it is convenient to try the counterclaim alongwith the suit itself instead of driving the defendants to file another suit. In short, the petition fails and is rejected.